

Report to **Policy & Resources Committee**
Date **24 Nov 2022**
By **Purchasing Officer**
Title of Report **South Downs Centre Cleaning Contract Procurement**
Decision

Recommendation: The Committee is recommended to:

- 1. Approve the commencement of a procurement process leading to the appointment of a contractor to undertake cleaning services for the South Downs Centre.**
 - 2. Delegate authority to the Chief Executive to award contracts for the above, following a competitive process as described in this report.**
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1. Introduction and background

- 1.1 The SDNPA has a contract in place for cleaning of the South Downs Centre offices and meeting rooms at a cost of £33,147 a year.
- 1.2 The current three-year contract expires in April 2023 with an option to extend by a further two years.
- 1.3 As with every contract there have been issues with the economic situation currently affecting the UK, all businesses are facing cost increases which could not have been anticipated when the current contract was let. Making the decision to re-tender this contract now rather than making use of the permitted extension ensures the current contractor is not held to prices set before current high inflation rates, and builds in stability for both the successful bidder and SDNPA. The term of the new contract would be for three years with a possible extension for a further year.

2. Policy Context

- 2.1 The provision of a safe and clean working environment to the effective delivery of the Partnership Management Plan and the Corporate Plan by staff based at the South Downs Centre.

3. Issues for consideration

The Procurement Route

- 3.1 As yet there have been no significant changes to the Public Procurement Rules following the UK's departure from the European Union, save for some minor policy changes to below threshold procurements, allowing Authorities to reserve specific contracts. Although much of the public procurement law in the UK derives from EU directives, it is incorporated into English law through The Public Contracts Regulations (2015) Act, which remains in force. The UK has joined the Government Procurement Agreement, within the World Trade Organisation, through which it commits to maintain access to Government contracts to other member states. A bill on public procurement, which sets out a direction of travel for

the future, is currently going through Parliament, but if passed, this will not be implemented until late in 2023.

- 3.2 The indicative value for this four year contract is expected to fall significantly below the threshold set out in The Public Contracts Regulations (PCR) 2015 for services contracts. The threshold applying from January 2022 is £213,477 (including VAT). The Regulations, other than Chapter 8, will not therefore apply to this procurement process.
- 3.3 Contract Standing Orders (CSO 10) applies to this contract as it is above £75,000 but less than the relevant PCR threshold. As no suitable framework agreement, DPS or Approved List is available, CSO 10 requires that tenders should be invited from at least five bidders. It is intended in this procurement to use the Open Process and advertise this contract on our own website and nationally using the Contract Finder public procurement portal.

Tender Evaluation

- 3.4 Although SDNPA commonly uses the single stage or open process for receiving tenders, as recommended by the Cabinet Office for low value tenders, evaluation of the tenders is carried out in two stages.
- 3.5 The Selection Stage is where we evaluate the capability of the contractor to satisfactorily carry out the contract. This involves looking at the financial strength and other resources of the bidder, including its previous experience in carrying out similar works. There is no weighting or scoring in this stage of an open tender; contractors can either do the work or they can't, so this is judged on a pass or fail basis. As the selection criteria are described in the tender, it is unusual for bidders to fail at this stage, generally if they don't meet the criteria then they won't submit a bid.
- 3.6 The Award Stage is carried out using the Most Economically Advantageous Tender (MEAT) criteria for awarding the contract, using a combination of quality factors, for example Approach to the Contract and Project Resourcing as well as price. The evaluation panel will be looking at the sustainability aspects of any approach, as well as looking for proposals that will add social value to the contract.
- 3.7 Evaluation is carried out by a number of officers scoring independently, before meeting on a panel basis. The evaluation programme will also allow for a process of clarification on all aspects of bids and due diligence before the award is made.

4. Options & cost implications

- 4.1 Even taking into account the current rate of inflation, the predicted cost for the new contract is expected to be within the core budget for the cleaning of premises held within the Corporate Services directorate.
- 4.2 The SDNPA is committed to paying the minimum 'living wage' as calculated by the Low Pay Commission, currently £9.50 per hour (2022), to all members of staff excluding apprentices, employed by SDNPA or predominantly employed within premises controlled by SDNPA. It is therefore a requirement of this contract that any staff predominantly employed in this contract are paid the living wage as calculated by the Low Pay Commission.
- 4.3 As described in section 3 above, the procurement of a new contract will ensure value for money by seeking competitive bids and evaluating these using appropriate quality/price ratios.

5. Next steps

- 5.1 With Committee approval, it is intended to release the Invitation to Tender on Monday 28 November 2022. The tender process will remain open for 8 weeks, closing in mid-January. Three weeks has been allowed for evaluation, including clarifications and due diligence, leading to award in early February, ready for mobilisation and commencement of the contract in mid-April 2023.

6. Other implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	SDNPA has sufficient resources in place, in terms of staff qualified to undertake the procurement exercise.
How does the proposal represent Value for Money?	The competitive tender process is aimed at delivering value for money.
Which PMP Outcomes/ Corporate plan objectives does this deliver against	All: a clean and safe working environment is essential for the wellbeing of staff and visiting partners, allowing them to deliver the PMP Outcomes and Corporate plan objectives effectively. In particular, Corporate Plan Year 3 Action Plan 3.2: Climate Action (see below).
Links to other projects or partner organisations	No.
How does this decision contribute to the Authority's climate change objectives	SDNPA will require bidders to demonstrate how they minimise their carbon emissions, both as an organisation and in the delivery of this contract. This could include the use of appropriate cleaning methods and materials, travel methods and waste considerations, and these aspects of the bidders approach to the contract will be evaluated.
Are there any Social Value implications arising from the proposal?	For lower value contracts below Public Procurement Thresholds, Social Value is included in the evaluation criteria where proportionate and relevant, as is the case with this contract. Tenders will be evaluated on the bidders' approach to social value in terms of how they could improve economic, social and environmental well-being through the delivery of the contract.
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	The procurement and terms of this contract will meet the requirements of the Equality Act 2010 and SDNPA's EDI Mission statement.
Are there any Human Rights implications arising from the proposal?	The selection process will examine the bidders' compliance with the laws on Modern Slavery.
Are there any Crime & Disorder implications arising from the proposal?	The probity of bidders will be examined as part of the selection process.
Are there any Health & Safety implications arising from the proposal?	The bidders' Health and Safety policies and records will be examined during the selection process.
Are there any Data Protection	No

Implication	Yes*/No
implications?	
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	<p>The environmental policies of bidders will be examined during the selection process.</p> <p>Those bidders shortlisted will also need to demonstrate how their policies and experience in sustainability will influence their approach to the contract. This will be examined at the Award stage of the procurement process.</p>

7. Risks Associated with the Proposed Decision

7.1 There are four well documented risks with any procurement as shown in the table below.

Risk	Likelihood	Impact	Mitigation
<p>Commercial Risk: that either the price objectives are not achieved up front, or there are other costs that arise during the contract that diminish the overall benefits.</p>	Unlikely	2	<p>A thorough tendering process will keep the risk of hidden costs to a minimum.</p> <p>A detailed specification of requirements for daily and periodic cleaning will enable the contractor to accurately calculate their costs and price the contract realistically, therefore keeping changes to costs at a minimum. Re-tendering the contract now will enable bidders to consider costs over the 3-year term and price accordingly.</p>
<p>The contract will be carried out during a period of severe economic downturn and insolvency on the part of the contractor is a risk.</p>	Unlikely	3	<p>There are provisions within SDNPA's Terms and Conditions of Contract to allow insolvency situations to be managed and financial standing will form part of the due diligence process. Neither of those is sufficient to eliminate this risk.</p>
<p>Technical Risk: this concerns the difficulty in being able to specify the desired outcome and on the market being able to deliver the specification.</p>	Rare	1	<p>This contract is being re-tendered and the current specification will be reviewed and refined to ensure it remains fit for purpose before publishing the invitation to tender.</p> <p>(According to the British Cleaning Council the cleaning, hygiene and waste industry is one of the UK's top ten biggest industries comprising 66,420 business in 2020, and offering direct employment to 957,000 people and there should not be a shortage of bidders with the ability to deliver the specification.)</p>

Risk	Likelihood	Impact	Mitigation
<p>Performance Risk: This concerns the ability of supplier to perform consistently over the life of the contract to deliver the planned benefits.</p>	Possible	2	<p>Relevant KPIs and associated targets will be agreed between SDNPA and the appointed contractor at the start of the contract, and regular contract management meetings held to ensure any performance issues are dealt with efficiently and effectively.</p>
<p>Contractual Risk: This covers things like being able to remedy the shortcomings in the contractors' performance without severely damaging the contract, and about avoiding reliance on the contracted supplier as the contract develops.</p>	Possible	2	<p>See mitigations for performance risk above. Proactive contract management should minimise performance issues. SDNPA's Legal Team would assist with any contractual issues if they arise.</p> <p>It is difficult not to rely on a contracted supplier in this type of contract, so it is important that evaluation of bids is thorough.</p>
<p>Legal Risk: In Public Procurement there is a legal risk, where a procurement is found unsound in law, either through the remedies directive or the public procurement rules.</p>	Rare	2	<p>The value of this contract is below the threshold for Public Contract Regulations, although they are followed as best practice. The use of professional procurement staff will help ensure that the contract process complies with the SDNPA procurement rules and with best practice.</p>

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Appendices	None
SDNPA Consultees	Chief Executive; Chief Finance Officer; Head of Finance & Corporate Services
External Consultees	None
Background Documents	N/A